

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211

CRM-M-20277-2023

Date of Decision: 22.05.2023

Alfred Mall and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Hari Om Verma, Advocate for the petitioners

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Jagdish Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. On 25.04.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioners are seeking anticipatory bail in FIR No. 37 dated 10.4.2023, under Sections 498-A and 120-B IPC, registered at Police Station, Dhariwal, District Gurdaspur.

Learned counsel for the petitioners inter alia contends that son of the petitioners solemnized marriage with respondent on 29.1.2021 as per Christian rites and ceremonies and their son who even today is residing in Canada left for Canada on 14.3.2021. The complainant is B.Sc. Nursing and she wants to go to abroad. The petitioners are trying their best to take her away and on account of delay, she has got frustrated and lodged FIR against them. The

petitioner have spent a good amount for her course of beautician. The petitioners are old aged parents of husband of the complainant. The petitioners are ready to join investigation and face proceedings. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioners as well entire family.

Notice of motion, returnable for 22.05.2023.

On the asking of Court, Mr. Vipin Pal Yadav, Addl. A.G., Punjab, who on advance notice is present in court, accepts notice on behalf of State-respondent.

Having considered contents of the FIR, role attributed to the petitioners, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioners and law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, this Court is of the prima facie opinion that petitioners deserve protection from arrest. Accordingly, at the first instance, the petitioners are directed to appear before investigating officer on 01.05.2023 and thereafter as directed by IO. In the event of arrest, the petitioners shall be admitted to interim bail on furnishing of bail/surety bonds to the

satisfaction of investigating/arresting officer. The petitioners shall co-operate the investigating officer.

If the arresting officer does not permit the petitioners to join the investigation, the petitioners would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioners in investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.”

2. Short reply by way of affidavit dated 19.05.2023 of Rajbir Singh, P.P.S., Deputy Superintendent of Police, Rural District Gurdaspur filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

3. Learned State counsel, on instructions from ASI Jagdish Singh, submits that petitioners have joined investigation and no custodial interrogation is required.

4. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioners vide order dated 25.04.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. If the petitioner or their family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State

would be at liberty to move an application for cancellation of bail granted by this order.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

22.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>